

LAMONICA HERBST & MANISCALCO, LLP

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April 15, 2025

VIA ECF

Magistrate Judge Gary Stein
United States District Court
Southern District of New York
500 Pearl Street, Room 702
New York, NY 10007

MEMO ENDORSED

**Re: Flybar Inc. v. Express Trade Capital, Inc., *et al.*,
Case No. 1:25-cv-00618-VSB-GS**

Dear Judge Stein,

This firm is co-counsel to the Defendants in the above-referenced action.

We write to respectfully request: 1) an adjournment of the Initial Case Management Conference currently scheduled for April 23, 2025 at 11:00 a.m., and 2) that the parties be permitted to submit a proposed case management plan and scheduling order once the third-party defendants appear in this action.

The reason for this request is that on April 4, 2025, the Defendants filed a third-party complaint against two third-party defendants. [Dkt. No. 23] The third-party summonses and complaints are in the process of being served.

This is the first request for an adjournment or extension. Defendants' counsel are generally available for an Initial Case Management Conference during the week of June 16.

Defendants submit that an approximate 60-day adjournment of the Initial Case Management Conference and deadline for parties to submit a proposed case management plan and scheduling order would permit the third-party defendants to be served, appear by counsel, and participate in the proposed case management plan/scheduling order and Initial Case Management Conference.

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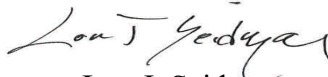
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Plaintiff has not consented to this request. Plaintiff's reason for refusing is Plaintiff "does not believe that another two months of delay is reasonable. If and when the Third-Party Complaint is served, and the Third-Party Defendants appear, they can seek whatever relief they deem appropriate at the time."

Defendants submit that the proposed adjournment would remove the risk that the existing parties enter into a discovery plan and ESI protocol at this time, and then need to enter into another discovery plan and ESI protocol, perhaps subject to different terms, when the third-party defendants appear in this action in the near future.

We thank the Court for its assistance.

Respectfully,


Lon J. Seidman

Application denied. The Court does not find Defendant's anticipated service of a Third-Party Complaint to be a good reason to delay the start of discovery between the parties. Defendant's indemnification claims against the Third-Party Defendants arise from a separate contractual relationship and should not materially impact the scope or timing of discovery between Plaintiff and Defendant. Adjustments to the discovery schedule, if any are needed, can be made if and when the Third-Party Defendants appear and file their answers.

Date: April 16, 2025
New York, NY

SO ORDERED:



HON. GARY STEIN
UNITED STATES MAGISTRATE JUDGE